

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
Tampa Division**

UNITED STATES OF AMERICA)	
)	
v.)	Case No.: 8:03-CR-77-T-30TBM
)	
SAMI AMIN AL-ARIAN, <i>et al.</i>,)	
)	
Defendants.)	

**MOTION FOR BILL OF PARTICULARS
AS TO SUPERCEDING INDICTMENT**

Comes now the accused Sami Al-Arian, by and through his undersigned counsel and moves pursuant to Rule 7 of the Federal Rules of Criminal Procedure (F.R.C.P.) for the entry of an order granting a Bill of Particulars with respect to the new superceding indictment. As grounds for the foregoing, the accused avers that the indictment is without sufficient specificity for the accused to prepare a defense. The Accused also reincorporates his previous Bill of Particulars, Doc. 248 and requests this Honorable Court to reconsider that motion because in the intervening discovery period from September, 2003, until the current time, little if any of the questions posed in that original Bill of Particulars have been answered. For these reasons, Dr. Al-Arian respectfully moves this Court to order the United States to file a Bill of Particulars in which it responds to the following questions:

CONSPIRACY TO COMMIT RACKETEERING - COUNT ONE

1. State with specificity the basis upon which the term “martyr” is defined as alleged in paragraph 2.

2. State with specificity the basis upon which the term “detainee” is defined as alleged in paragraph 2.
3. State with specificity what is meant by the term “Territories” as it is used throughout the superceding Indictment.
4. State the exact basis upon which the decision was made to eliminate the word “occupied” from the superceding Indictment.
5. State with specificity who or what entities occupy the “territories”.
6. State with specificity upon what legal authority the occupying entity occupies and continues to occupy the “territories”.
7. State with specificity the time and place the occupying entity began its occupation of the “territories”.
8. State with specificity how, when, and where did Fathi Shiqaqi and other persons managed the affairs of PIJ from PIJ headquarters in Damascus, Syria, as alleged in paragraph 5.
9. State with specificity when and where was the exact time and place that Mazen Al Najjar became a member of the PIJ.
10. State with specificity when and where was the exact time and place that Mazen Al-Najjar became a member of the “Shura Council” of the PIJ.
11. State with specificity when and where was the exact time and place that Mazen Al-Najjar entered the United States on a non-immigrant visa.

12. State with specificity when and where was the exact time and place that Mazen Al-Najjar became a member of the PIJ.
13. State the exact reasons why Al-Najjar was deported from the United States.
14. State with specificity when and where was the exact time and place that Mazen Al-Najjar became the Executive Director of ICP.
15. State with specificity how ICP utilized a subsidiary organization known as the Muslim Women's Society ("MWS").
16. State the time, place, and manner in which MWS purportedly raised money for individuals abroad who were in financial need.
17. State with specificity when MWS maintained a bank account at the First Union National Bank in Tampa, Florida.
18. State the time, place, and manner in which Al-Najjar allegedly became an authorized signatory on the MWS bank account.
19. State with specificity how the defendants utilized WISE as an institution where some of their members could receive cover as employees.
20. State the time, place, and manner in which Ramadan Abdullah Shallah (Shallah) served as the Executive Director of WISE.
21. State with specificity when and where was the exact time and place that Sameeh Hammoudeh ("Hammoudeh") was employed at WISE.

22. State with specificity when and where was the exact time and place that Sami Al-Arian (Al-Arian) served as Chairman of the Board of Directors of IAF.
23. State with specificity how the defendants utilized IAF as an institution where some of their members could receive cover as employees.
24. State with specificity when and where was the exact time and place that the Elehssan Society served as the fun-raising arm of the PIJ in Gaza and the West Bank.
25. State with specificity in what manner the Elehssan Society utilized internet websites for the solicitation of funds.
26. State with specificity in what manner the internet websites featured PIJ claims of responsibility for terrorist acts.
27. State with specificity in what manner the MWS, Elehssan constituted an enterprise.
28. State with specificity all acts allegedly undertaken by Sami Al-Arian which involve obstruction of justice.
29. State with specificity the exact verbal and written communications utilized to maliciously threaten injury to persons.
30. State with specificity in what manner were the individuals in the State of Israel threatened by Dr. Al-Arian through verbal and written communications.

31. State with specificity the exact time and place that Sami Al-Arian used the internet to threaten individuals in the State of Israel.
32. State with specificity the exact time, place, and manner that Sami Al-Arian solicited funds utilizing the internet computer facilities.
33. State with specificity the exact time, place, and manner that funds were diverted from ICP and MWS to PIJ.
34. State with specificity the exact time, place, and manner that funds were transferred and disguised to conceal the nature, location, ownership or control of the funds.
35. State with specificity the exact time, place, and manner that Al-Arian allegedly performed management functions for the PIJ.
36. State with specificity in what manner did Al-Arian misrepresent, conceal and hide the purpose of acts done in furtherance of the conspiracy.
37. State with specificity how Nidal Zalloum was associated with the PIJ.
38. State with specificity what relationship Nidal Zalloum had with Al-Arian.
39. State the identity of the person who allegedly murdered fourteen people on July 7, 1989.
40. State the manner in which the above referenced person was associated with the PIJ.

41. State the identity of the person to whom Bashir Nafi allegedly commented about how weapons reached the Territories.
42. State the identities of the persons who can establish that Abd Al Aziz Awda made the comment that ‘they refused to consider their jihad to be equal to terrorism.’
43. State the identities of the persons who can establish that unindicted co-conspirator One urged conference attendees to donate to the PIJ in memory of Nidal Zalloum.
44. State the identities of the “more than twenty Jews” and their manner of death who were allegedly killed by Zalloum.
45. State with specificity the time, place, and manner in which Al-Arian purchased two official checks totaling \$52,000 payable to Ghassan Ballut.
46. State with specificity the time, place, and manner in which Al-Arian wrote a check for \$10,000 drawn on the ICP account payable to IAF.
47. State with specificity the time, place, and manner in which Al-Arian wrote a check for \$12,040 drawn on the MWS account payable to Hammoudeh.
48. State with specificity the time, place, and manner in which Al-Arian wrote a check for \$6,863 drawn on the MWS account payable to Hammoudeh.

49. State with specificity the time, place, and manner in which Al-Arian wrote a check for \$20,000 drawn on the ICP account payable to Hammoudeh.
50. State with specificity the relationship of the PIJ to the Palestinian Authority as alleged in Overt Act 35.
51. State with specificity which members of the PIJ Al-Arian sent a facsimile to as alleged in Overt Act 36.
52. State with specificity to whom did Al-Arian send a facsimile as alleged in Overt Act 37 (a) & (b).
53. State with specificity where Muhammed Al-Khatib was ‘overseas’ as alleged in Overt Act 38.
54. State with specificity what ‘financial need’ was being referenced in the conversation between Al-Arian and Al-Khatib, as alleged in Overt Act 41.
55. State with specificity the time, place, and manner in which Al-Khatib became the treasurer of the PIJ, as alleged in Overt Act 51.
56. State with specificity whether any of the translations of the phone calls utilized in the indictment, from Arabic to English, were processed by military linguists.
57. State with specificity the names of all translators utilized in any of the translated phone calls which make up the overt acts in the indictment.

58. State the names of the co-conspirators who associated with the PIJ and kidnapped and murdered Elan Soudri as alleged in overt act 61.
59. State the exact location where Elan Soudri was killed.
60. State the time, place, and manner in which Al-Arian re-transmitted a facsimile to Al-Khatib, as alleged in Overt Act 79 (b).
61. State with specificity whether Al-Arian discussed with Al-Najjar whether the Egyptian authorities should be notified that Al-Najjar lost his passport.
62. State with specificity the time, place, and manner in which Al-Arian wrote a check for \$4,400 drawn on the MWS account payable to ICP.
63. State with specificity from whom did Al-Arian receive a three page facsimile as alleged in Overt Act 100.
64. State with specificity the time, place, and manner of the conversation Al-Arian allegedly had with Naim Bulbol as alleged in Overt Act 103.
65. State with specificity any evidence that shows Al-Arian's telephone conversations through 1994 and 1995 contributed to the violent activities of the PIJ.
66. State with specificity any evidence that shows Al-Arian's receipt and transmittal of facsimiles through 1994 and 1995 contributed to the violent activities of the PIJ.

67. State with specificity any evidence that shows Al-Arian's check payments to Hammoudeh, as alleged through the indictment, contributed to the violent activities of the PIJ.
68. State what is meant by "Al-Arian laughingly said that several of the members would like it and would not want to leave", as alleged in Overt Act 105.
69. State the last name of the person referred to as Samir as stated in Overt Act 108.
70. State the evidence, which shows that there was a relationship between PIJ and HAMAS in the spring of 1994.
71. State with specificity what "money" is being referred to in Overt Act 114 and who sent it.
72. State the identity of the co-conspirator referenced in Overt Act 123.
73. State with specificity the identities of the co-conspirators associated with PIJ involved in the incident at Morag Junction as alleged in Overt Act 124.
74. State with specificity any evidence, which shows Al-Najjar, supported the violent activities of the PIJ.
75. State with specificity any evidence that shows any facsimiles which were sent to Shallah were also received by Al-Arian.
76. State with specificity what is meant by Al-Arian "belittled the Order..." as alleged in Overt Act 143.

77. State any evidence, which shows that Al-Arian, in fact, “favored mails being sent through Europe because direct movements from the Middle East were subject to more scrutiny, as alleged in Overt Act 147.
78. State with specificity the identity of the person who sent Al-Arian a facsimile describing United States Senate Resolution 69, as alleged in Overt Act 148.
79. State with specificity any evidence, which shows Al-Arian, wrote or authorized any facsimiles sent by Shallah while he resided in the United States.
80. State with specificity any evidence, which shows Al-Arian, reviewed, or even witnessed, any of the facsimiles received by Shallah.
81. State with specificity any evidence, which shows Al-Arian, was involved with any wire transfers by Shallah.
82. State the identity of the sender of the facsimile from the Tampa Tribune as alleged in Overt Act 198.
83. State with specificity any evidence, which shows there was any communication between Al-Arian and Shallah after the departure of Ramadan Shallah from the United States.
84. State with specificity any evidence that shows Al-Arian made a false statement as alleged in Overt Act 227.

85. State with specificity any evidence that shows Al-Arian made a false statement as alleged in Overt Act 229.
86. State what is meant by a “coded conversation” as used in Overt Act 264.
87. Please specify if the conversations as asserted in Overt Act 266 constitute predicate crimes within the meaning of the Count 1 RICO conspiracy.
88. Please specify if any of the conversations that occurred around the defense of Al-Najjar, as alleged in the indictment, constitute predicate crimes within the meaning of Count 1 RICO conspiracy.
89. Please specify any evidence, which connects Al-Arian to any of the wire transfers allegedly sent by Hatim Fariz, as asserted in the indictment.
90. Please specify the identity of the female friend alluded to in Overt Act 296.
91. Please specify the identity of the sender of the facsimile allegedly received by Al-Arian as asserted in Overt Act 300.
92. State with specificity what is meant by a “coded telephone conversation” between Al-Arian and Al-Khatib, as alleged in Overt Act 308.

CONSPIRACY TO PROVIDE MATERIAL SUPPORT

93. State with specificity the time place and manner that Al-Arian discussed the affairs of the PIJ and the threats to the security of the PIJ and its members as alleged in paragraph (3)(g).
94. State with specificity the time place and manner that Al-Arian provided financial assistance to the surviving family members of martyrs, “thereby rewarding past terrorist acts and providing incentive for future terrorist acts” as alleged in paragraph (3)(i).
95. Please state with specificity how Shallah continued Al-Arian’s alleged prominent role in PIJ, as alleged in paragraph (3)(m).
96. Please state with specificity the evidence that Al-Arian raised funds to further the goals of the PIJ in order to influence the conduct of Israeli and U.S. governments by intimidation or coercion, and to retaliate against government conduct, as alleged in paragraph (3)(q).
97. Please state with specificity the evidence of how Al-Arian instructed other co-conspirators to transfer funds overseas to avoid detection by law enforcement, as alleged in paragraph (3)(u).

MEMORANDUM OF LAW

Federal Rule of Criminal Procedure 7(f) states in relevant part that “[t]he court may direct the government to file a bill of particulars.” Fed. R. Crim. P. 7(f). The purpose of a bill of particulars is to inform the defendant of the nature of the charge with

sufficient precision to enable him to prepare his defense, to avoid or minimize danger of surprise at trial, and to facilitate a plea of double jeopardy in the event of prosecution for the same offense. *United States v. Cole*, 755 F.2d 748, 760 (11th Cir. 1985); *Castro v. United States*, 248 F. Supp.2d 1170 (S.D. Fla. 2003). Although the granting of a bill of particulars is addressed to the sound discretion of the trial court, Rule 7(f) was expressly designed “to encourage a more liberal attitude by the courts towards bills of particular.” Charles Alan Wright, *Federal Practice and Procedure*, section 129, citing Advisory Committee Note to 1966 Amendment..

WHEREFORE, the Accused, Sami Al-Arian, respectfully moves this Honorable Court to grant the particulars requested in this motion in order to allow him to prepare his defense and to prevent prejudicial surprise at trial.

Dated: 29 October 2004

Respectfully submitted,

/s/ Linda Moreno
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th October, 2004, a true and correct copy of the foregoing has been furnished, by CM/ECF, to Walter Furr, Assistant United States Attorney; Terry Zitek, Assistant United States Attorney; Kevin Beck, Assistant Federal Public Defender, M. Allison Guagliardo, Assistant Federal Public Defender, counsel for Hatim Fariz; Bruce Howie, Counsel for Ghassan Ballut, and by U.S. Mail to Stephen N. Bernstein, P.O. Box 1642, Gainesville, Florida 32602, counsel for Sameeh Hammoudeh.

/s/ Linda Moreno
Linda Moreno
Attorney for Sami Al-Arian